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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,728	03/22/2005	Ralf Jakobi	PC10541US	3723
23122	7590	10/16/2006	EXAMINER	
RATNERPRESTIA P O BOX 980 VALLEY FORGE, PA 19482-0980			WINDLEY III, WILLIAM R	
			ART UNIT	PAPER NUMBER
			3682	
DATE MAILED: 10/16/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/528,728

Applicant(s)

JAKOBI ET AL.

Examiner

William Windley III

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3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 20-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 3-22-05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 1 it recites "when actuated". Nothing previously recited that provides for, allows, or anticipates activation of the lever. Use of the term "when" renders the claim unclear. Claim 1 also recites "in particular". Use of this phrase renders the claim unclear.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 20, 22, 26, 27, 29 are rejected under 35 U.S.C. 102(b) as being anticipated by McFarlane USP 6173625.

McFarlane discloses a(n):

- Holder (12)
- Mounting support (22)
- First axis (29)

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- First pedal lever (14)
- Second axis (24)
- Control member (26)
- Second pedal lever (32)
- Fourth axis (40)
- The mounting support is swiveled by means of an electric drive, said drive being configured as an electric motor equipped with a gear and being rotatably anchored at holder (Column 4, lines 22-32)
- Pedal lever of a clutch device (60)
- Protrusion (142)

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 20-21,27 are rejected under 35 U.S.C. 102(e) as being anticipated by

Brock USP 6443028.

Brock discloses a(n):

- Holder (102)

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- Mounting support (12)
- First axis (Through pin 20)
- First pedal lever (38)
- Second axis (through 26)
- Control member (58)
- Second pedal lever (34)
- Fourth axis (400, See attached Figure 3, marked by examiner)
- Third axis (60)
- The mounting support is swiveled by means of an electric drive, said drive being configured as an electric motor equipped with a gear and being rotatably anchored at the holder (Column 3, lines 38-41)

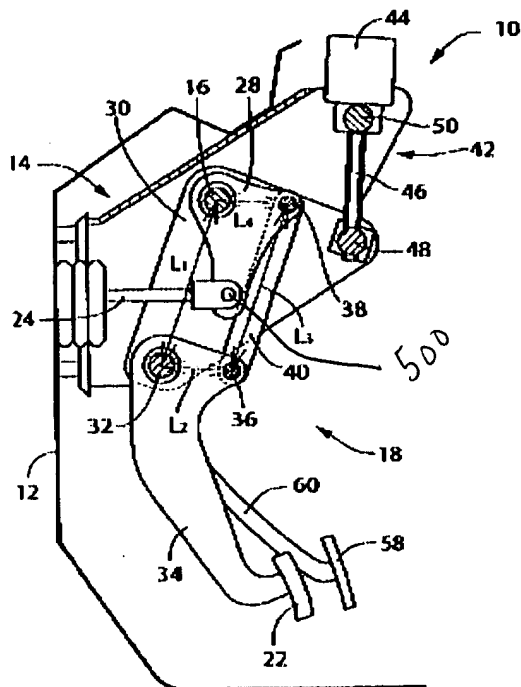


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3. Claims 20-21,25 are rejected under 35 U.S.C. 102(e) as being anticipated by Fukase USP 6520045.

Fukase discloses a(n):

- Holder (14)
- Mounting support (30)
- First axis (through 16)
- First pedal lever (34)
- Second axis (32)
- Control member (24)
- Second pedal lever (60)
- Fourth axis (56)
- First end (right portion of 24) and second end (left portion of 24)
- Third axis (500, See Figure 1A, marked by examiner)
- The holder is fastened to a splashboard of the vehicle (See Figure 1A)

**FIG. 1A*****Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 23, 24 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over McFarlane USP 6173625 in view of Cicotte USP 6701799.

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Re claim 23 McFarlane discloses all of the claim limitations, as stated above, and further discloses the second pedal lever serves for the engine speed control (Column 3, lines 64-67) with the lower free ends of the pedal levers being furnished with pedal plates (18,36), but does not disclose the first pedal lever is used for actuation of a brake booster or a master cylinder of a brake system.

Cicotte teaches the first pedal lever (14) is used for actuation of a brake booster or a master cylinder of a brake system (Column 6, lines 45-48) for the purpose of imparting a braking force to the vehicle (Column 6, lines 49-50).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the brake system of McFarlane and employ a first pedal lever is used for actuation of a brake booster or a master cylinder of a brake system, as taught by Cicotte, for the purpose of imparting a braking force to the vehicle.

Re claim 24 McFarlane in view of Cicotte discloses all of the claim limitations, as stated above, and McFarlane further discloses a separate guide rod (26) and a swiveling lever (28) are provided between the first pedal lever (14) for the brake actuation and a piston rod (119) with said guide rod being articulated at the pedal lever and the piston rod.

Re claim 30 McFarlane in view of Cicotte discloses all of the claim limitations, as stated above, and McFarlane does not disclose a second end of the second pedal lever acts on a carburetor control for the engine speed control.

Cicotte further discloses a second end of the second pedal lever acts on a carburetor control for the engine speed control (Column 6, lines 50-58) for the purpose of imparting an accelerating action to the vehicle (Column 6, 54-56).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the setup of McFarlane and employ a second end of the second pedal lever acts on a carburetor control for the engine speed control, as taught by Cicotte, for the purpose of imparting an accelerating action to the vehicle (Column 6, 54-56).

6. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over McFarlane '625 in view of Smith 3691868.

Re claim 28 McFarlane discloses all of the claim limitations, as stated above, but does not disclose the first axis lies on the point of intersection of the mid-verticals of two distances with the first distance being defined by the displacement of the second axis during the adjustment and the second distance being defined by the displacement of the fourth axis during the adjustment.

Smith teaches that the first axis (87) lies on the point of intersection of the mid-verticals of two distances with the first distance being defined by the displacement of the second axis (37) during the adjustment and the second distance being defined by the displacement of the fourth axis (35) during the adjustment for the purpose of permitting movement of the carrier relative to the support (Column 2, lines 46-47).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the setup of McFarlane and employ a setup where the

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first axis lies on the point of intersection of the mid-verticals of two distances with the first distance being defined by the displacement of the second axis during the adjustment and the second distance being defined by the displacement of the fourth axis during the adjustment, as taught by Smith, for the purpose of permitting movement of the carrier relative to the support.

7. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fukase in view of Beishline USP 6736233.

Re claim 29 Fukase discloses all of the claim limitations, as stated above, but does not disclose a pedal lever of a clutch device additionally pivoted in the mounting support.

Beishline teaches a pedal lever of a clutch device (121) additionally pivoted in the mounting support for the purpose of allowing the user to shift gears in manual drive vehicle.

It would have been obvious to one of ordinary skill in the art at the time the Invention was made to modify the pedal setup of Fukase and employ a pedal lever of a clutch device additionally pivoted in the mounting support, as taught by Beishline, for the purpose of allowing the user to shift gears in manual drive vehicle.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William Windley III whose telephone number is 571-272-6460. The examiner can normally be reached on 8:30 AM to 5:30 PM Monday through Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

William Windley III  
10/6/2006



RICHARD RIDLEY  
SUPERVISORY PATENT EXAMINER